LaValle, Diane 58010

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DOCKETS
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From: Billings, Delmer
Sent: Tuesday, June 22, 1999 8:23 AM
To: LaValle, Diane; Coburn, Kevin
Subject: FW: HM-229 Comments

Importance: High

Comments

-----Original Message-----
From: Paul Bomgardner [SMTP:Pbomgard@trucking.org]
Sent: Monday, June 21, 1999 9:09 AM
To: Rules
Subject: HM-229 Comments

Dockets Unit

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Attached are ATA's comments to RSPA Docket No. 99-5013 (HM-229). There are 3 parts to the comments:

1. Comments
2. Appendix A (Draft F5800.1)
3. Appendix B (Draft Cause Codes)

Thank you,
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HM-229.doc Appendix.doc Appendix.doc

Before the

U.S. DEPARTMENT OF TRANSPORTATION
RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

June 21, 1999
WASHINGTON, DC

Comments of the

AMERICAN TRUCKING ASSOCIATIONS

On

REVISIONS TO THE HAZARDOUS MATERIALS INCIDENT REPORTING REQUIREMENTS AND THE DETAILED HAZARDOUS MATERIALS INCIDENT REPORT FORM F5800.1

RSPA Docket No. 99-5013 (HM-229)
Federal Register [Vol. 64, No. 55]

AMERICAN TRUCKING ASSOCIATIONS

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I. Foreword

The American Trucking Associations, Inc. (ATA) files these comments on behalf of its members and affiliates in response to the Federal Register Advance Notice of Proposed Rulemaking (ANPRM), March 23, 1999, Docket No. RSPA-99-5013 (HM-229) [Vol.64, No, 55], Department of Transportation (DOT), Research and Special Programs Administration (RSPA), regarding Hazardous Materials: Revisions to the Incident Reporting Requirements and the Detailed Hazardous Materials Incident Report DOT Form F5800.1.

The ATA, with offices located at 2200 Mill Road, Alexandria, Virginia 223 14, is the national trade association of the trucking industry. Through our affiliated associations located in every state, fourteen affiliated conferences, and other organizations, ATA represents over 34,000 trucking companies of every type and class of operation in the country.

The ATA Safety Policy Department reviews legislative and regulatory actions proposed by any jurisdiction in the United States. The Safety Policy Department solicits industry views and develops and submits, in rulemaking proceedings, comments reflecting trucking industry policy. It also submits comments to final rules and petitions for regulatory amendments to enhance safe motor carrier operations and overall highway safety. Additionally, the department develops materials and programs that assist motor carriers in meeting their responsibilities for regulatory compliance and safe operations.

Issue Manager:

Paul M. Borngardner
Director, Hazardous Materials Policy

II. Introduction

The Hazardous Materials Incident Report (HMIR), Form DOT F5800.1 and the system by which it is regulated needs to be revamped. There is a general feeling throughout the hazardous materials transportation industry that the present system by which hazardous materials incidents are reported does not provide RSPA with pertinent information. Moreover, the system relies solely on information provided by carriers, while shippers have no responsibility in reporting incidents that they may cause.

In developing the comments contained in this document, ATA worked closely with its carrier members and the Task Force on DOT 5800.1 Form Revision (Task Force), a coalition of carriers and shippers assembled by the Association of American Railroads (AAR). While ATA has affixed its signature to the joint comments filed by the Task Force in response to this docket, there are areas of interest specific to the trucking industry that need to be addressed.

II. Questions and Answers

General Issues

1. Should the hazardous materials incident reporting requirements be extended to persons other than carriers (such as freight forwarders, warehouse operators, consignees, etc.)?

Yes. RSPA should expand the reporting requirements in 49CFR 17 1.15 and 17 1.16 to include shippers, transporters and consignees. The reporting party should be the party who has "physical control" of the shipment at the time of the incident. In those cases where "physical control" can not be immediately determined, the person required to report should be the one who controls the facility where the incident occurred. For purposes of this requirement, the term "facility" would include a transport vehicle, as well as fixed sites or buildings.

Therefore, ATA recommends that RSPA amend section 171.15(a) to read:

(a) At the earliest practicable moment, each person determined to be in physical control of the hazardous material, or, when physical control of the hazardous material can not be determined, each person in control of the facility where the incident occurred, during the course of transportation, shall give notice in accordance with paragraph (b). . .; and

Paragraph (c) should be amended to read:

(c) Each person making a report under this section.. .

In addition, section 171.16(a) should be amended to read:

(a) Each person determined to be in physical control of the hazardous material, or, when physical control of the hazardous material can not be determined, each person in control of the facility where the incident occurred, shall report in writing. . . ; and

Paragraph (b) should be amended to read:

(b) Each person making a report under this section.. .

2. **Should RSPA require reporting of any incident involving discovery of an undeclared shipment of hazardous material whether or not there is a release of the hazardous material? Should the expanded requirement apply only to incidents discovered by a carrier during transportation? Should the requirement apply to discovery by a consignee or other person during or following delivery of the material?**

RSPA should not require reporting of an undeclared shipment of hazardous material whether or not there is a release of the material. Carriers fear that a requirement to do so exposes their companies to undue liability and possible enforcement actions for accepting hazardous materials not properly prepared.

As to the larger question of undeclared hazardous materials shipments, ATA agrees with the Task Force that reporting of undeclared shipments raises issues outside the scope of this rulemaking and that a separate rulemaking should be undertaken to address that particular issue.

Because we feel that RSPA should not impose a requirement to report undeclared hazardous materials shipments, the other 2 questions raised in number 2 are moot.

Telephonic Notification (see section 171 .15)

3. **Currently, immediate notification is required for incidents where estimated carrier or other property damage exceeds $50,000. Is this monetary reporting threshold reasonable? Should it be modified or eliminated? If modified, not what amount? Why?**

ATA agrees with the Task Force that RSPA should eliminate any monetary threshold from the immediate notification requirements in section 171.15. Because of the inconsistency in the collection and reporting of property damage values, any arbitrarily imposed threshold is meaningless. Often, the true value of any loss is not known for weeks, months, or even years. Litigation is seldom concluded in a short time frame and remediation of the incident site could continue for a long period of time.

For the reasons stated, RSPA should eliminate section 17 1.15(a)(l)(iii) from the regulations and rename sub-paragraphs (a)(iv), (v), and (vi) as (a)(iii), (iv), and (v), respectively.

4. Should any other current requirements for immediate notification be modified or eliminated? If so, explain your suggested modification, the reasons for the modification, and anticipated impacts.

No. The other requirements currently in section 17 1.15 for immediate notification should remain intact.

5. Should RSPA require immediate telephonic notification for any other type of incident?

While RSPA should not expand the immediate notification requirements at this time, there is a more pressing problem associated with verbal notification at the state and local levels.

It needs to be recognized that only one immediate telephone notification at a time can be made. Often, multiple agencies within a specific jurisdiction require immediate reporting of a hazardous material. ATA agrees with the Task Force that a hierarchy of local, then National Response Center (NRC), calls be established. Such a hierarchy would help the reporting party to comply more easily with its responsibility to report by eliminating duplication of effort and confusion.

Additionally, in the Community Right-to-Know Act, section 42 U.S.C. 11004(b) requires immediate local notification of transportation incidents involving the release of "Extremely Hazardous Substances." We agree with the Task Force's recommendation that RSPA adopt this requirement and apply the "one-call" method in those instances where notification is required. However, if the incident would not require any outside emergency response as identified in 29 CFR 1910.120(a)(3), "responses to incidental releases of hazardous substances where the substance can be absorbed, neutralized, or otherwise controlled by employees in the immediate release area," no immediate local notification should be required.

States and localities that require immediate notification are proliferating. Most states require notification, some to multiple entities within the state. In virtually every case, all jurisdictions that require notification, require immediate notification. The issue of "one call" notification has been discussed in a number of forums, but to no avail. In fact, the U. S. Environmental Protection Agency (EPA) reported on this in their report: The Stakeholders Want Change: Report of a Meeting on Improving the System for Hazardous Materials Accident Safety

(EPA, January 1995, page 1). We are not opposed to providing immediate notification; however, we should be relieved of redundant, additional, and/or conflicting non-federal immediate notification requirements.

ATA therefore recommends that section 17 1.15 be amended to incorporate one-call notification for both local and national requirements and to include an exception for immediate reporting for incidents covered by 29 CFR 1910.120(a)(3).

6. **In addition to notifying the National Response Center, should a carrier be required to give immediate telephonic notification of an incident to the person who offered the hazardous material for shipment?**

No. As a general business practice, motor carriers contact the offeror of the hazardous materials shipment any time such a shipment is involved in an incident. Additionally, the Hazardous Materials Regulations (HMR) require motor carriers to have an emergency response telephone number as part of the shipping paper for most hazardous materials shipments. Between the general business practice and the emergency response telephone number requirement, there is no need to implement an additional requirement to immediately contact the person who offered the hazardous material for shipment.

7. **If an incident requiring immediate telephonic notification occurs at the location of an offeror or consignee, should the offeror or consignee be required to provide the notification? Should such notification be in addition to, or instead of notification from the carrier? What would be the usefulness and burdens associated with such a requirement?**

The burden for immediate telephonic notification of an incident should fall upon the person who has physical control of the hazardous material at the time of the incident. Refer to the answer to question number 1 for recommended amendments to section 17 1.15 for this purpose.

Written Reports (see section 171.16)

8. **Is the current regulatory language clear as to when a written incident report is required? If not, what changes should RSPA make?**

Yes. Present regulatory language is clear as to when a written report is required to be filed.

9. **To provide a broader perspective for risk management in more critical hazardous material transportation situations, should additional information be collected through the incident reporting system to document successful**

performance and better gauge the integrity of packaging? For instance, should information be collected on certain highway accidents whether or not a hazardous material has been released? Would an appropriate definition of "accident" for reporting purposes be "any collision, rollover, jack-knife, or departure from the roadway"? Should additional reporting be limited to certain packagings or materials such as- cargo tanks, portable tanks, and IM portable tanks with a capacity greater than 1,000 gallons; cylinders containing flammable gas with a water capacity greater than 100 pounds; explosives in packaging greater than 50 pounds; or toxic-by-inhalation liquids or gases in any quantity and packaging? Should such additional reporting be limited to situations where there is exposure to fire or damage to the packaging? Should reporting be required for railway accidents that do not involve the unintentional release of hazardous materials, or do mechanisms exist to adequately capture this information apart from the DOT Form F5800.1?

No, to all parts of this question. In a majority of the situations stated in the question, there is a strong possibility that the event will cause the hazardous materials reporting system to be initiated. For instance, in the recent past, a truck transporting 17 tons of explosives overturned after failing to negotiate a turn on an exit ramp. Although the vehicle was completely off the traveled portion of the highway and posed no obstacle to the free-flow of traffic, the entire interstate highway system was completely shut down for approximately 14 hours because of the contents of the container. Moreover, no product either escaped from any package or from the container, itself. But, this accident caused the incident reporting system to be utilized because of the road closure for more that one hour. Therefore, as in this case, there is no reason to institute further reporting requirements for the types of accidents stated in question number 9.

10. Should RSPA expand the exceptions in § 171.16(c) to include any other hazardous material; class, division, or packing group; or quantity limitations? If so, indicate the exception and why.

Yes. In addition to agreeing with the suggestions of the Task Force, ATA recommends that RSPA broaden the exceptions in section 171.16(c) to include:

1) Class 3 flammable liquids that do not meet the definition of any other hazard class, and are not hazardous substances, hazardous wastes, or marine pollutants, when shipped in packagings of 20 liters (5.2 gallons) or less;
2) The release of any class of material in Packing Group III when shipped in packagings of 20 liters (5.2 gallons) for liquids or in packagings of 20 liters (5.2 gallons) and 22 kilograms (50 pounds) for solids;
3) "Normally expected discharges" of petroleum distillates (gasoline, fuel oil, kerosene, etc.) of 20 liters (5.2) gallons or less that occur during loading or

unloading, including those that occur as a result of a hose connecting or disconnecting operation; or

4) Discharges of argon, nitrogen, oxygen, or carbon dioxide from regulating valves during transportation.

In section 171.16(c) there is an exception for Class 3 and Class 8 paint shipped in packagings of 5 gallons or less. ATA believes that Class 8 paints should not be excepted from reporting because of the nature of the hazard. However, again due to the nature of the hazard, expansion of this exception to all single-phase Class 3 flammable liquids appears to make'sense. If this particular exception is limited to Class 3 flammable liquids that do not meet the definition of any other hazard class and are not hazardous substances, hazardous wastes, or marine pollutants, then it is felt that expanding the exception does not jeopardize safety and helps to reduce unnecessary paperwork.

Packing group III materials are the least likely materials to cause harm. They can be handled with relative ease and cleanup is generally less of a problem. Flashpoints are high and other characteristics are of a nature that the material sometimes borders on being non-regulated. Therefore, hazardous materials assigned to packing group III should be excepted from incident reporting.

Hundreds of thousands of deliveries of petroleum distillates occur every day. Drips from hoses occur because it is virtually impossible to drain every drop during loading or unloading. These "unintentional releases" can be easily cleaned up, in most cases without outside intervention. While carriers do everything possible to eliminate these spills, they inevitably happen. Because of the low level of danger they pose to people and property, RSPA should except "hose spills" of 20 liters or less of petroleum distillates.

While it is understood that "normal venting" of atmospheric gases should occur during transportation, RSPA should add an exception to section 171.16 in order to clearly identify these products. Such an exception will clarify any confusion that now exists.

Therefore, ATA recommends that paragraph 171.16(c)(l)(iii) be removed, and that recommended exceptions 1 through 4 above be added as paragraphs 171.16(c)(3) through (6), respectively.

11. Is there a spill quantity of an excepted material that should trigger incident reporting? For example, a spill of paint from a packaging with a capacity of less than 5 gallons is not reportable. Should a spill of a certain quantity of hazardous material be reportable regardless of the capacity of the packaging in which it was contained (e.g., a release from numerous small packagings)?

No. "Triggers" already exist for incident reporting for excepted materials in section 17 1.16(d). There is no need to amend these triggers.

DOT Form F5800.1

12. Should RSPA develop an abbreviated incident report form for incidents of low severity? What criteria could be used as a threshold? What minimal information should be required for a low severity incident?

Yes. ATA agrees with the Task Force that a tiered approach should be utilized for incident reporting. While all incidents that are required to be reported according to section 17 1.16 should be done so on a "short" or "census" form, additional information should be reported for more serious incidents.

We recommend that the census form be used for reporting only non-bulk transportation incidents where the incident is obviously caused by outside factors, such as mishandling, improper loading, or vehicular accident. In those cases, only sections I and V of the recommended form (see: Appendix A) would need to be completed.

In cases where a non-bulk package fails for reasons other than handling or from improper loading of the material, and in all cases involving bulk transportation of hazardous materials, a longer, more descriptive form would be required. Additionally, ATA suggests that a long form incident report be used in all incidents that fall under the immediate reporting requirements of section 17 1.15. Sections I through V of the recommended form would need to be completed in these instances.

ATA recommends that RSPA use the four instances stated in section 17 1.16(d) as triggers for long-form reporting. Additionally, the following new requirements should be added as triggers for the need to file long-form, comprehensive reports:

1) Incident that occurred as a result of a transportation accident or incident involving a bulk packaging; or
2) The incident involved the release of a material toxic (poisonous) by inhalation.

13. Should DOT Form F5800.1 be structured to more accurately describe the cause and manner of a packaging failure? How could this be done to better capture human causal factors?

Yes. The current form does not provide sufficient detailed data with respect to packaging information for non-bulk packages or package failure information for bulk packages. ATA agrees with the Task Force that RSPA should develop a

system of numeric cause codes specific to non-bulk packagings, intermediate bulk containers (IBC), cargo tanks, and railroad tank cars. While a preliminary list is attached (see: Appendix B); the complete system would require additional development. ATA, as part of the Task Force, is willing to help RSPA in the development of the system should our recommendations be adopted. These cause codes would serve as a basis for causal analysis, which is an integral part of the development of corrective action plans. Additionally, information gathered from these codes would aid in incident prevention and reduction efforts.

With respect to the second part of the question, ATA believes that there is no benefit in assigning specific human causal factors to hazardous materials incidents. Although there is a degree of human failure involved in almost every hazardous material release, the intent of a cause code system is not to assign blame or responsibility for the incident. Rather, the cause code system should be used as an analytical tool to provide a clearer understanding of the "root cause" of any given incident.

14. Would replacing the current check boxes on DOT Form F5800.1, sections V 24 and VI 24 through 29, with numerically coded responses or other means to better identify how the incident occurred, increase the difficulty or lengthen the time it takes to complete the report?

Yes. Conceivably, replacing the existing check boxes with numerically coded responses could increase the difficulty and length of time it takes to fill out an incident report. However, the benefits of numerically coded responses over check boxes outweigh the problems because of the usefulness of the data format for analytical purposes. Additionally, the coded response format lends itself to electronic submission of the incident report.

15. Would replacing the boxes on DOT Form F5800.1, section VIII parts 41 through 45, with numerically coded responses or other means to identify the reasons why the packaging failed, increase the difficulty or lengthen the time it takes to complete the report?

Yes. However, see the answer to number 14. Additionally, changes to these data fields are necessary to allow shippers and carriers to understand the root cause of failures. This information will aid these entities in the implementing the use of packagings that will prevent similar failures in the future. Subsequently, this will cause a reduction in potential injuries and environmental damages through decreased exposure to released hazardous materials.

16. What additional fields, if any, should be included on the report form to indicate the amount of hazardous material that was initially in the package?

None. Present information on the capacity of the package is sufficient.

1% **Would the information required by section VII of the report form be easier to understand if column C was removed, column A was renamed "Inner Package," and column B was renamed "Outer Package"? Why?**

Yes. However simply changing the titles to the columns is only the first step. The explanation for further enhancement to this information is provided in the answer to question number 18.

18. **Should there be either separate sections on DOT Form F5800.1 for reporting bulk and non-bulk packagings or a separate incident report form for these packagings?**

Yes. Except in the case of IBC's, bulk and non-bulk packagings are inherently different. Bulk packagings are mostly self-contained transport vehicles that are built according to very strict design specifications. Non-bulk packagings and IBC's on the other hand need to meet or exceed certain performance standards. So, even if you disregard their obvious differences, the reasons for failure are more deeply rooted in the way they are designed, tested, and equipped.

The present incident report form lacks specific information as to the cause of a failure. Separation of this information would provide a clearer, more concise description of the specific areas of packaging failure. These changes are necessary in order to facilitate root cause analysis, implement improvements in packaging, and prevent future releases.

The recommended report forrn in Appendix A to these comments reflects these changes to the incident report.

19. **Should we require more specific incident location data, such as mile-post or street address, if available? How difficult would it be to obtain and report this information? What additional benefit would the information provide?**

No. However, if the information is available, and the person filing the report elects to provide it, then it should be allowed, but not required. ATA sees no use for this information because it does nothing to identify the cause of the incident.

20. **How can better information be provided on DOT Form F5800.1 as to the transportation phase of an incident (e.g., when the incident most likely occurred)?**

As provided on the recommended form in Appendix A, the transportation phase should be identified through the implementation of numeric codes.

21. Should RSPA require updates to section V 18 through V 23, the incident consequences fields, if additional or better data are available after the incident report form was submitted to DOT? Should RSPA set an amount or percentage change to trigger filing of a supplemental report?

Yes. The only time that an update should be required is when an injury becomes a fatality within 12 months from the date of the incident. No other information should have to be updated. As the majority of incidents involve small releases of materials that cause no injury or environmental damage, any percentage change reported would be so minimal as to have no statistical value.

22. Should better information on release duration be collected (e.g., the length of time a vapor is dispersed)? How could this be done?

No. ATA agrees with the Task Force that this information has no statistical value for a number of reasons. One such reason is that the reporting party may not know how long a cylinder or other packaging was venting before being discovered. At best, it would be a guess as to the duration of the release. There are other similar circumstances that would render this information unusable for any analysis of the incident. However, if known, it could be included as part of the narrative.

23. How can RSPA acquire better information on failures, such as estimated dimensions of cracks or punctures?

If known, this, too, could be part of the narrative. However, RSPA should not require this type of information to be reported. Collecting this information would delay cleanup as well as expose employees and/or responders to the material. Typically, mitigation of a non-bulk packaging spill includes over-packing of the damaged package. Once inside the overpack, it would be irresponsible to require measurement of the failure merely to provide this information on a report.

24. What burdens would you incur from a requirement to submit copies of photographs in your possession when specified criteria are met?

Submission of "photographs in your possession" should remain optional. Sometimes, hundreds of photographic images that range from still photographs to digital "videos" are taken at the scene of an incident. Submission of these images could be very costly. Duplicates would have to be made and sent to RSPA because the person who sent them would have to retain the originals for other purposes.

25. Should reporting of information concerning duration of an evacuation be included on the incident report form?

No, this information should not be required. However, if this information is known, reporting of the duration could be included in the narrative. RSPA needs to know only if the duration of an evacuation lasted more than one hour. This time frame is critical because it is one of the triggers for immediate reporting in section 17 1.15. After one hour, there is no value in reporting total time of an evacuation.

26. Should RSPA add an additional section to the incident report form to include information regarding who was injured or required hospitalization (e.g., general public, employees, or emergency response personnel)?

Yes. However, no specific information should be required. As reflected on the recommended report in Appendix A, only the number of employees, emergency responders, or members of the general public killed or injured should be reported. Also, as stated in the answer to question 2 1, an update of this information should be required only when an injury becomes a fatality within one year from the date of the incident.

2% Should RSPA add a section to the incident report form to identify the UN packing group, if any of the hazardous material and the packaging?

Yes. As part of the basic description of the hazardous material involved in the incident, Packing Group is an important piece of information. The data derived from this information could be used in the analytical process to track releases of hazardous materials from certain packagings and to aid in prevention of future releases.

28. Are you aware of other Federal reporting forms that duplicate information required by DOT Form F5800.1? If so, how could RSPA link the necessary transportation data to other required Federal reporting forms?

No. ATA is not aware of any other Federal reporting forms specific to the motor carrier industry that duplicate information required by the DOT Form F5800.1.

Customer Uses and Needs

29. What data and other information do you use from the incident report form and for what purpose?

Mostly, ATA utilizes incident trend data. It is important to know this information when submitting comments to dockets or when testifying before Congress on matters concerning the transportation of hazardous materials. Also, this information is utilized by state trucking associations for similar purposes at the state level.

Individual trucking companies use data provided by RSPA for any number of purposes. These purposes include tracking trends within their companies and throughout the industry, comparing their own performance against that of the industry, and identifying problem packagings and/or materials.

30. What additional data not now collected on the incident report form should be collected and for what purpose would it be used?

The additional data fields that should be added to the incident report are: Location, including street address, route number, mile-marker (optional and if available), latitude and longitude for maritime incidents, and name of airport for aviation incidents; EPA Hazardous Waste Manifest number (in lieu of submission of manifest itself); Residue (Yes/No); Limited Quantity (Yes/No); Packing Group; Evacuation lasting more than 1 hour (Yes/No); Fatalities and/or Injuries (number of employees, emergency responders, and/or members of general public); Package Failure with corresponding cause codes, fitting/valve manufacturer and model number; Non-bulk Packaging Information; and Bulk Packaging Information (head thickness, shell thickness, design pressure, and materials of construction).

For information on the format of this information, refer to the recommended report form in Appendix A.

All additional information is designed to be used for purposes related to packaging assessment and risk management.

31. Should access to incident data be available via the Internet? If only select data could be provided because of cost or technology considerations, what data would be most useful to you?

Yes. However, ATA agrees with the Task Force that only summary information should be made available via the Internet. In fact, the information that is now available on RSPA's web site (http://hazmat.dot.gov) regarding hazardous materials incidents is very complete, useful, and easy to obtain. Nothing further than what is available should be placed on the Internet.

If an entity or person needs further information on a specific incident, there is a mechanism in place to request that information. Filing of a "Freedom of Information Act" (FOIA) request for the specific report/s/ is already used by those who need to obtain more detailed information.

32. RSPA is considering optional electronic filing of incident reports by facsimile (fax), electronic mail (e-mail), and Internet. Do you have recommendations concerning implementation of electronic filing? Are there other means of electronic filing that RSPA should consider?

ATA urges RSPA to expedite implementation of optional electronic filing. All available methods for electronic filing should be allowed, including fax, e-mail attachment, Internet, or diskette submission.

As for the Internet, ATA urges RSPA to set up a section on its web site that provides a blank electronic copy of the incident report that a person filing the report could just fill in and file. Additionally, the form should be available in such a format that would allow the user to download the image into their computer for use at a later date.

Implementation of any electronic filing format for incident reports would ease the paperwork burden on both the regulated industry and the regulators.

33. How would you use a tracking system for DOT Form F5800.1 submissions and processing status?

Motor carriers have indicated that they have no need for a tracking system for incident reports, other than what they have instituted internally for their own use.

34. In accordance with National Transportation Safety Board (NTSB) recommendation R-89-52, what would be the potential benefits or impacts of requiring motor carriers (other than private motor carriers) reporting hazardous materials incidents under 49 CFR 171.16 to notify shippers whose hazardous materials shipments are involved in the incident being reported?

Refer to question 6.

35. In accordance with NTSB recommendation H-92-6, how could RSPA, in cooperation with Federal Highway Administration (FHWA), improve the current incident reporting program to collect information identifying patterns of cargo tank equipment failures, including reporting of all accidents involving a DOT specification cargo tank, whether or not a release occurred?

Refer to question 9.

III. Conclusion

In order for RSPA to provide meaningful hazardous materials incident data, the incident reporting system and the DOT Form F5800.1 needs to be revamped. Motor carriers recognize the fact that a new system and form will require a certain amount of expenditure on their part, but they are willing to accept the negatives in order to create a system that is easy to understand and use and that provides data needed for risk analysis.

Any new system should include shippers, transporters and consignees as entities required to submit incident reports. The new incident report form should incorporate the use of a tiered structure (short-form vs. long-form) for reporting of minor versus serious incidents. And, entities should be allowed to file an incident report electronically.

ATA appreciates the opportunity to comment on the incident reporting system and the DOT Form F5800.1. Should you have any questions regarding these comments, please call me at 703-838-1849.

DRAFT 2 DEPARTMENT OF TRANSPORTATION HAZARDOUS MATERIALS INCIDENT REPORT DRAFT 2

I. CENSUS INFORMATION

DATE AND TIME OF INCIDENT OR FINDING R E P O R T ___ O F

DATE: _____ (Format MM/DD/CCYY) TIME: _____ (Format Military Time - 24 Hour Clock)

LOCATION

CITY: _____ STATE: _____ (Two letter alpha) COUNTY: _____

ADDITIONAL INFORMATION, IF AVAILABLE:
ROUTE OR STREET OR MILE POST OR LATITUDE & LONGITUDE OR AIRPORT _____

REPORTING PARTY (Name & address or reporting code, DOT census number, vessel name and ID number)

NAME: _____ CODE _____ OTHER FEDERAL REPORTING NUMBER _____

ADDRESS: _____ CITY/STATE _____

SHIPMENT INFORMATION

SHIPPER: _____ SHIPPING PAPER WAYBILL ID # _____

POINT OF ORIGIN (City/State) _____

DESTINATION (City/State) _____ EPA MANIFEST ID # (If Applicable) _____

HAZARDOUS MATERIAL SPILLED OR INVOLVED

PROPER SHIPPING NAME _____ RESIDUE (Y/N) _____

HAZARD CLASS _____ (e.g. 3, 6.1, 8) IDENTIFICATION NUMBER _____ (e.g. UN2398, NA1967) P A C K I N G GROUP LIMITED QUANTITY (Y/N) _____

QUANTITY RELEASED (Specify Units e.g. gals., lbs., etc.) _____ WAS A REPORTABLE QUANTITY OF A HAZARDOUS SUBSTANCE RELEASED (Y/N)?

RESULTS OF RELEASE (List All Applicable)

1 = SPILLAGE 2 = VAPOR (GAS) DISPERSION 3 = FIRE 4 = EXPLOSION 5 = ENTERED WATERWAY/SEWER
6 = ENVIRONMENTAL DAMAGE 7 = NO RELEASE, EVACUATION OF GENERAL PUBLIC 8 = NO RELEASE, MAJOR TRANSPORTATION ARTERY/FACILITY CLOSED
9 = NO RELEASE, OPERATIONAL FLIGHT PATTERN/ROUTINE OF AIRCRAFT ALTERED 10 = OTHER (DESCRIBE) _____

EVACUATION

GENERAL PUBLIC ONLY (Number) _____

DURATION (Hours) _____

FATALITIES (Number of Each)

E M P L O Y E E S _____

NON-EMPLOYEES _____

RESPONDERS _____ (Observation, Released)

INJURIES (Number of Each)

	EMPLOYEES	NON-EMPLOYEES	RESPONDERS
HOSPITALIZED (Admitted Only)			
NON-HOSPITALIZED (Off Site First Aid;			

MODE OF TRANSPORTATION

1 = AIR 2 = HIGHWAY 3 = RAIL
4 = WATER 5 = U.S. MAIL

TYPE OF VEHICLE

1. CARGO TANK 2 = TANK CAN 3 = COVERED HOPPER 3 = TOFC/COFC 4 = OTHER RAIL CAR
5 = VAN TRUCK/TRAILER 6 = FLATBED TRUCK/TRAILER 7 = AIRCRAFT 8 = BARGE 9 = SHIP

TRANSPORTATION PHASE

1 = ENROUTE BETWEEN ORIGIN/DESTINATION 2 = LOADING 3 = UNLOADING 4 = TEMPORARY STORAGE

ON BULK ACCIDENT CAUSE (COMPLETE ONLY WHEN PACKAGE FAILURE RESULTED FROM FORCES NOT NORMALLY INCIDENT TO TRANSPORTATION)

SELECT A SINGLE CAUSE WHICH BEST DESCRIBES THE INCIDENT _____

1 = TRANSPORT VEHICLE ACCIDENT/DERAILMENT 2 = HEAVY FREIGHT LOADED ON TOP 3 = PUNCTURED BY TRAILER DEFECT 4 = PUNCTURED BY FORKLIFT
5 = PUNCTURED BY OTHER FREIGHT 6 = PUNCTURED BY OTHER TOOLS/EQUIPMENT 7 = LOADED AGAINST ARROWS 8 = DAMAGED BY FALLING FREIGHT
9 = VANDALISM 10 = LOAD SHIFTED 11 = DROPPED/FELL/CRUSHED 12 = WNCTUREO BY NAIL/PROTRUSION

NOTE: IF INCIDENT MEETS ANY OF THE CRITERIA DEFINED IN 49CFR 171.16. COMPLETE ENTIRE FORM. IF NOT, GO TO SECTION V.

ACCIDENT DATA

WAS THE SPILL THE RESULT OF A VEHICLE ACCIDENT/DERAILMENT? (Y/N) _____
IF VEHICLE ACCIDENT. COMPLETE SECTIONS A, B, & C. IF DERAILMENT, COMPLETE SECTIONS A & D.

A. ESTIMATED SPEED (MPH) _____

B. HIGHWAY TYPE _____
1 = DIVIDED/LIMITED ACCESS 2 = UNDIVIDED
3 = DIVIDED NOT LIMITED ACCESS

C. TOTAL NUMBER OF LANES _____
1 = ONE 2 = TWO
3 = THREE 4 = FOUR OR MORE

D. TRACK TYPE _____
1 = MAIN LINE. SINGLE TRACK 2 = MAIN LINE, DOUBLE TRACK
3 = SIDING 4 = YARD
5 = INDUSTRIAL/PLANT

II. PACKAGING INFORMATION

PACKAGE FAILURE

CAUSE CODE
(Required - **See Appendix** A)

_____ - - -

COMPLETE BELOW ONLY FOR **FITTING AND/OR** VALVE FAILURES

FITTING/VALVE MANUFACTURER **(Brand)** _____

MODEL NUYBER _____

I. BULK PACKAGING INFORMATION

PACKAGE ***SPECIFICATION/PERFORMANCE*** MANUFACTURERS *MARKINGS* **(INCLUDING THICKNESS)** _____
(e.g. UN1A1/Y 1.2/150/97/USA/M0000/98 RI. 1.2/0.9/1.2)

IF ND SPECIFICATIONS OR MARKINGS **AVAILABLE, INDENTIFY TYPE** AND MATERIAL OF DUTEA **PACKAGING**

I. _____	II. _____	III. _____
1 = DRUM 2 = WOOD BARREL 3 = JERRICAN 4 = BOX 5 = BAG 6 = COMPOSITE PACKAGING 7 = PRESSURE RECEPTACLE	A = STEEL B = ALUMINUM C = NATURAL WOOD D = PLYWOOD E = RECONSTRUCTED WOOD F = FIBERBOARD G = PLASTIC H = TEXTILE I = PAPER, MULTIWALL J = METAL, OTHER THAN A OR B K = GLASS,PORCELAIN, STONEWARE	a = [illegible] b = CLOSED (TIGHT) HEAD

IF INNER PACKAGING, TYPE AND MATERIAL

I. _____	II. _____
1 = BOTTLE 2 = CAN 3 = BOX 4 = BAG 5 = CYLINDER	A = METAL (ANY TYPE) B = GLASS, PORCELAIN, STONEWARE C = PLASTIC D = FIBERBOARD, CARDBOARD E = WOOD, RECONSTRUCTED WOOD, PLYWOOD

CAPACITY OF OUTER PACKAGING _____

INTERMEDIATE BULK **PACKAGING** INFORMATION

CAUSE **CODE**
(Required - **See Appendix** A)

_____ _____ _____

PACKAGE **SPECIFICATION/PERFORMANCE** MANUFACTURERS **MARKINGS (INCLUDEING THICKNESS)**

_____
(e.g. UN1A1/Y 1.2/150/97/USA/MOOOO/98 R L 1.2/0.9/1.2)

BULK PACKAGING **INFORMATION**

SERIAL NUMBER/REPORTING MARKS _____

PACKAGE SPECIFICATIONS _____

CAPACITY/WEIGHT _____
(e.g. load capacity, tare, gross)

EXEMPTION/APPROVAL/COMPETENT AUTHORITY NUMBER. IF APPLICABLE **(e.g.** DOT **E 1012)** _____

COMPLETEBELOWFOR ACCIDENT RELEASE **ONLY**

HEAD **THICKNESS (units)** _____ **SHELL** T H I C K N E S S **(units)** DESIGN **PRESSURE (psig)** _____ **MATERIAL OF CONSTRUCTION** _____

III. ADDITIONAL INFORMATION

ESTIMATED DAMAGES (**Show as dollars. Complete only when** TOTAL **damages** • mxad **$50,000)**

PRODUCT LOSS _____ CARRIER DAMAGE _____ PUBLIC **PRIVATE PROPERTY DAMAGE** _____ **DECONTAMINATION/ CLEANUP** _____

IV. DESCRIPTION OF INCIDENT

NARRATIVE DESCRIPTION OF THE INCIDENT **Detailed description of what cause the incident and action taken to resolve the incident.**

V. SUBMISSION INFORMATION

PERSON REPORTING INCIDENT	SIGNATURE	
TITLE	**TELEPHONE** NUMBER **INCLUDING** AREA **CODE**	DATE **REPORT SIGNED**

gallons) may not be loaded to a filling density of more than 20% and less than 80% by volume. This filling restriction does not apply if a portable tank is divided by partitions or surge plates into compartments of not more than 7,500 L capacity.

Section 173.222. In § 173.222, in introductory paragraph (c) and paragraph (c)(4), the incorrect reference to transportation by aircraft is removed. The paragraphs pertain to all modes of transportation.

Section 178.603. RSPA received a petition for reconsideration from the Conference on Safe Transportation of Hazardous Articles, Inc. (COSTHA) requesting an amendment to § 178.603(f)(5) concerning the drop test criteria. COSTHA expressed concern that the requirements for combination packagings are more stringent than those for drums, jerricans and bags and that they had submitted their request before the publication of HM-215C, NPRM. RSPA received COSTHA's request too late for consideration under the NPRM which was already in the final stages of processing for publication. RSPA received a second request from COSTHA after publication of the NPRM. As explained in the preamble of the final rule, certain suggested revisions were not discussed in the final rule because they were not proposed. The request will be given consideration in a separate rulemaking.

III. Rulemaking Analyses and Notices

APPENDIX B - Sample Cause Codes - DRAFT

Non-Bulk & IBC

010 ForkLift Punctured
011 Nail/Protrusion Punctured
012 Other Freight Punctured
013 Other Tool Punctured
014 Metal/Plastic Fatigue
015 Packaging Failure
016 Top Loaded Freight Crushed
017 Load Shift/Blocking and Bracing Failed
018 Load Shift/No Blocking and Bracing
019 Dropped/Fell
020 Fire/Heat Rupture/Burst
021 Freezing Rupture/Burst
022 Rubbing/Abrasion
023 Loose Lid/Bung/Closure
024 Vandalism
025 Container lining damaged/defective
026 Container jacket failed
027 Leaking at the vent due to problem with gasket
028 Leaking at bolted flange due to problem with gasket
029 Leaking past threaded connections in vent
030 Leaking past threaded connections at relief valve
031 Leaking past threaded connections at gauges
032 Leaking at relief valve due to over pressure
033 Leaking at valve stem
034 Leaking at valve seat
035 Leaking through packing
036 Manway leaking due to a problem with gasket
037 Manway leaking due to a problem with bolts
038 Leaking due to broken/defective vacuum relief valve
039 Vacuum relief valve leaking due to defective o-rings
040 Safety relief valve leaking past gasket connection to car
041 Safety relief valve leaking through valve seat/bent or broken stem
042 Safety relief valve leaking through valve seat/overloaded tank
043 Safety relief valve leaking as valve opens to release over pressure
044 Leaking due to defective/misaligned o-rings
045 Leaking due to broken/defective safety relief valve
046 Bottom outlet valve leaking past threaded cap
047 Bottom outlet valve leaking past threaded plug
048 Bottom outlet valve leaking directly out of valve stem
049 Bottom outlet valve cap gasket missing/defective
050 Bottom outlet valve securement/valve open
051 Top operated bottom outlet valve leaking due to loose packing gland nut
052 Slip tube gauging device securement/leaking at flange
053 Slip tube gauging device securement/leaking at base of fitting

054 Slip tube gauging device securement/leaking at packing gland nut
055 Slip tube gauging device leaking through packing
056 Slip tube gauging device securement/leaking at needle valve plug
057 Heater coils cap securement/leaking from inlet or outlet pipes
058 Heater coils leaking due to damaged coils
059 Tank leaking due to defective weld/seam
060 Tank leaking/product incompatible

Tank Truck

110 Leaking at the dome cover due to problem gasket
111 Leaking at the vent due to problem with gasket
112 Leaking at bolted flange due to problem with gasket
113 Leaking at product transfer hoses due problem with gasket
114 Leaking at product transfer pipes due to problem with gasket
115 Leaking at product transfer pump due to problem with gasket
116 Leaking at product transfer blower due to problem with gasket
117 Leaking past threaded connections in vent
118 Leaking past threaded connections in clean-out openings
119 Leaking past threaded connections at relief valve
120 Leaking past threaded connections at gauges
121 Leaking at relief valve due to over pressure
122 Leaking at product transfer device due to over pressure
123 Leaking due to burst frangible disk
124 Leaking at valve stem
125 Leaking at valve seat
126 Leaking through packing
131 Vandalism

Tank Cars

211 Manway leaking due to missing gasket
212 Manway leaking due to misaligned gasket
213 Manway leaking due to deteriorated gasket
214 Manway leaking due to loose bolts
215 Manway leaking due to missing bolts
216 Manway leaking due to broken bolts
217 Fill hole cover leaking due to missing gasket
218 Fill hole cover leaking due to misaligned gasket
219 Fill hole cover leaking due to deteriorated gasket
220 Fill hole cover leaking due to loose bolts
221 Fill hole cover leaking due to missing bolts
222 Fill hole cover leaking due to broken bolts
223 Fill hole cover locking bar loose
224 Vacuum relief valve leaking past pipe threads
225 Vacuum relief valve leaking through valve under cap
226 Leaking due to broken/defective vacuum relief valve
227 Vacuum relief valve leaking due to defective o-rings

228 Vacuum relief valve bumped or damaged in an accident
229 Vacuum relief valve torn off in an accident
230 Vacuum relief valve leaking due to rollover in accident
231 Safety relief valve leaking past gasket connection to car
232 Safety relief valve leaking through valve seat/bent or broken stem
233 Safety relief valve leaking through valve seat/overloaded tank
234 Safety relief valve leaking as valve opens to release over pressure
235 Leaking due to defective/misaligned o-rings
236 Leaking due to broken/defective safety relief valve
237 Safety relief valve bumped or damaged in an accident
238 Safety relief valve torn off in an accident
239 Safety relief valve released due to rollover in accident
241 Safety vent leaking due to burst frangible disk
242 Safety vent leaking past application of vent to car
243 Safety vent leaking due to missing frangible disk
244 Safety vent leaking due to misapplied frangible disk
245 Safety vent leaking due to corroded frangible disk
246 Safety vent bumped or damaged in an accident
247 Safety vent torn off in an accident
248 Safety vent burst due to rollover in accident
251 Threaded liquid valve leaking where valve screws to car
252 Threaded liquid valve leaking past threaded plug
253 Threaded liquid valve securemenVleak stops when valve is closed
254 Threaded liquid valve defective/leak continues when valve is closed
255 Threaded liquid valve leaking directly out of valve stem
256 Threaded liquid valve bumped or damaged in an accident
257 Threaded liquid valve torn off in an accident
261 Bolted liquid valve leaking where valve is bolted to car
262 Bolted liquid valve leaking past tapped flange on top of the valve
263 Bolted liquid valve securemenVleaking leak stops when valve closed
264 Bolted liquid valve defective/leak continues when valve is closed
265 Bolted liquid valve leaking directly out of valve stem
266 Bolted liquid valve bumped or damaged in an accident
267 Bolted liquid valve torn off in an accident
271 Bottom outlet valve leaking at the blind flange
272 Bottom outlet valve leaking where nozzle bolts to valve
273 Bottom outlet valve leaking past threaded cap
274 Bottom outlet valve leaking past threaded plug
275 Bottom outlet valve leaking directly out of valve stem
276 Bottom outlet valve cap gasket missing/defective
277 Bottom outlet valve securemenVvalve open
278 Top operated bottom outlet valve leaking due to loose packing gland nut
279 Top operated bottom outlet valve leaking due to defective/missing gasket
281 Slip tube gauging device securement/leaking at flange
282 Slip tube gauging device securement/leaking at base of fitting
283 Slip tube gauging device securement/leaking at packing gland nut
284 Slip tube gauging device leaking through packing
285 Slip tube gauging device securement/leaking at needle valve plug

286 Magnetic gauging device leaking from base of device cover/broken pipe
287 Tape type gauging device securement/leaking between seal on device/manway cover plate
288 Gauging device bumped or damaged in an accident
289 Gauging device torn off in an accident
291 Sample line leaking where needle valve screws on pipe nipple
292 Sample line leaking where pipe plug crews into needle valve
293 Sample line needle valve securement/leak stops when valve is closed
294 Sample line needle valve defective/leak continues when valve is closed
295 Samp .e
296 Samp .e
297 Samp
298 Samp .e line bumped or damaged in an accident
299 Samp .e line torn off in an accident
301 Liquid line flange leaking at flange nuts
302 Liquid line flange leaking due to missing/defective gasket
303 Thermometer well cap leaking/damaged thermometer well pipe
304 Thermometer well cap leaking/missing or defective o-ring in cap
305 Thermometer well leaking between nipple and manway cover/damaged thermometer well pipe
306 Thermometer well leaking due to broken well nipple
307 Thermometer well bumped or damaged in an accident
308 Thermometer will torn off in an accident
309 Vapor valve bumped or damaged in an accident
310 Vapor valve torn off in an accident
311 Heater coils cap securement/leaking from inlet or outlet pipes
312 Heater coils leaking due to damaged coils
313 Washout leaking around seal between tank and washout plate
314 Washout leaking from plug in washout plate/tell-tale plug securement
315 Leaking at sump/defective or damaged sump
316 Bottom fitting bumped or damaged in accident
317 Bottom fitting torn off in accident
321 Tank leaking/jacketed car- cause undetermined
322 Tank leaking due to defective weld/seam
323 Tank leaking/rubber liner failed
324 Tank leaking/liner cracked/defective
325 Tank leaking/product incompatible
326 Tank leaking/head punctured or torn in accident
327 Tank leaking/shell punctured or torn in accident
328 Tank leaking due to stub sill separation from tank
329 Tank leaking due to parent metal crack or failure in shell
330 Tank leaking due to parent metal crack or failure in head
331 Tank explosion/BLEVE
341 Commodity self-ignited - initiating event
342 Commodity polymerized
343 Vandalism